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The claims are 1, 4, 8-9, 11-13 and 15-26, claims 27-31 having been withdrawn by the Examiner as being directed to a non-elected invention. Claim 8 has been amended to better define the invention and claim 9 has been amended to depend on claim 25. In addition, claims 5-7 have been canceled. Reconsideration is expressly requested.

Claims 5-9 were objected to under 37 CFR 1.75(c) as being in improper dependent form as failing to further limit the subject matter of a previous claim. Claims 5-9 were also objected under 35 U.S.C. 112, second paragraph, as being indefinite for the reasons set forth on page 3 of the Office Action.

In response, Applicant has canceled claims 5-9 and has amended claims 8 and 9 to better define the invention. It is respectfully submitted that the foregoing amendments overcome the Examiner's objections under 37 CFR 1.75(c) and under 35 U.S.C. 112, second paragraph, and Applicant respectfully requests that the objections on that basis be withdrawn.

Claims 1, 4-13, and 15-26 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-17 and 22-31 of Applicant's commonly owned pending application (U.S. Serial No. 10/680,012. Essentially, the Examiner's position was that the claims in this application are not patentably distinct from the claims in the co-pending '012 application because the scope of the claims of the copending application is broader than that of the claims in this application rendering them obvious over each other.

This rejection is respectfully traversed.

Attached hereto are the claims as they currently appear in the co-pending '012 application, which it is respectfully submitted are substantially different from the currently pending claims in this application and certainly not broader than Applicant's invention as recited in the claims herein.

Contrary to the Examiner's position, the scope of claim 1 of the co-pending '012 application does not encompass Applicant's claim 1 as recited herein. Claim 1 of the '012 application is

directed to a film-bitumen combination that requires a bituminous layer. Moreover, in claim 1 of the '012 application, a first film edge of the film layers must project beyond the bituminous layer and a second edge must be shorter than the bituminous layer. In addition, contrary to the Examiner's position, the limitations recited in Applicant's claim 1 herein are not disclosed in claims 1-2 and 25 of the co-pending application. For example, claims 1, 2 and 25 of the '012 application fail to disclose a film layer made from a polyolefin that is configured to provide a barrier against mineral oils. Although claim 25 of the '012 application discloses a barrier layer, claim 25 requires that the barrier layer be disposed between the at least two film layers, rather than being the first film layer itself as recited in Applicant's claim 1 herein.

Accordingly, it is respectfully submitted that the claims of the co-pending '012 application are not broader than the claims set forth herein, that the claims set forth herein are not obvious over the '012 application claims or vice versa, and that there is no double patenting with respect to the co-pending '012 application.

Claims 1, 4-9, 11-13, 15, 17-26 were rejected under 35 U.S.C. 102(b) as being anticipated by Rowe U.S. Patent No. 4,396,665. The remaining claim 16 under consideration by the Examiner was rejected under 35 U.S.C. 103(a) as being unpatentable over Rowe in view of Bochow U.S. Patent No. 5,449,552. Essentially, the Examiner's position was that Rowe discloses the film recited in the claims except for the barrier layer being lacquer, which is said to be shown by Bochow.

This rejection is respectfully traversed.

As set forth in claims 1 and 25 as amended, Applicant's invention provides a multilayer film having at least two film layers made from different materials including a first film layer made from a polyolefin that serves as a barrier layer against mineral oil.

Contrary to the Examiner's position, Rowe fails to disclose or suggest a multilayer film including first and second film layers where the first film layer is made from a polyolefin configured to provide a barrier against mineral oils. Rather, Rowe uses an intermediate impervious metallic film 2 as a barrier

layer, not a film layer made from a polyolefin. Rowe simply describes a protective sheet having a bituminous adhesive layer, a metal foil and a plastic layer. There is no disclosure of a laminate which works without a metal foil even if the plastic layer of Rowe consists of a multilayer plastic laminate.

In contrast to Rowe, Applicant's invention as recited in claims 1 and 25 as amended deals with a release sheet which protects the bituminous adhesive layer temporarily, which represents a great difference from Rowe's protective sheet that includes a bituminous adhesive layer, metal foil and a plastic layer, which layers cannot be detached from each other. In contrast to the structure set forth in Rowe, Applicant's multilayer film as recited in claims 1 and 25 as amended does not use a metal foil and the first film plastic layer itself works as a barrier layer against the oily substances of the bituminous adhesive layer. The special construction of Applicant's multilayer film as recited in claim 1 and 25 as amended provides a removable protective sheeting which does not curl and does not delaminate from the bituminous adhesive layer before it should, which is nowhere disclosed or suggested by anything disclosed in Rowe.

The defects and deficiencies of the primary reference to Rowe are nowhere remedied by the secondary reference to *Bochow et al.* which has been cited with respect to claim 16. Applicant's claim 16 is directed to a multilayer film in which in addition to the plastic first film layer that serves as a barrier layer a lacquer layer is used as an additional barrier layer. Although *Bochow et al.* discloses an optional barrier layer lacquer, even if this lacquer barrier layer of *Bochow et al.* were to replace Rowe's metal foil barrier layer as suggested by the Examiner, one still would not arrive at Applicant's invention as recited in claims 1 and 25 as amended in which the first film layer is made from polyolefin and provides a barrier layer. A fortiori, one would not achieve Applicant's multilayer film as recited in claim 16 wherein in addition to the plastic barrier layer the multilayer film contains a lacquer layer as an additional barrier layer. Accordingly, it is respectfully submitted that claims 1 and 25 as amended together with claims 4, 8, 9, 11-13, 15-24 and 26 which depend directly or indirectly on either claim 1 or 25 as amended recite unobvious and patentable subject matter.

In summary claims 8, 9, 21 and 25 have been amended and claims 5-7 have been canceled. In view of the foregoing,

withdrawal of the final action and allowance of this application
are respectfully requested.

Respectfully submitted,
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Enclosure: Claims of co-pending Application No. 10/680,012

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**CLAIMS CURRENTLY PENDING IN APPLICANT'S COMMONLY-OWNED PENDING
U.S. APPLICATION NO. 10/680,012**

Claim 1: A film-bitumen combination comprising at least three layers wherein said at least three layers comprise a bituminous layer and at least two film layers made from different materials, said bituminous layer being coated on said at least two film layers, said at least two film layers comprising a first film layer and a second film layer produced from a polyolefin, polypropylene, polyamide, polyethylene terephthalate (PET), or polyacrylonitrile, said first film layer being located further away from said bituminous layer and having a larger coefficient of elongation than said second film layer, wherein at least a first edge of said at least two film layers projects beyond the bituminous layer and at least a second edge of said at least two film layers is shorter than the bituminous layer, wherein a surface of a side of the combination facing away from the bituminous layer has been treated to have non-slip properties, and wherein each individual film layer is arranged in the combination in accordance with its thermal stability and its mechanical strength.

Claim 2: The combination according to claim 1, wherein said at least two film layers have different coefficients of thermal expansion.

Claims 3-6 (Canceled).

Claim 7: The combination according to claim 1, wherein at least one of said at least two film layers is produced from polyethylene terephthalate (PET) and the PET layer is oriented.

Claim 8 (Canceled).

Claim 9: The combination according to claim 1, wherein said at least two film layers are laminated to said bituminous layer individually or together.

Claim 10 (Canceled).

Claim 11: The combination according to claim 9, wherein at least one film layer facing the bituminous layer provides a mineral oil barrier.

Claims 12-13 (Canceled).

Claim 14: The combination according to claim 1, wherein said second edge is on the layers facing away from the bituminous layer.

Claim 15 (Canceled).

Claim 16: The combination according to claim 1, wherein the non-slip treatment is carried out by means of coating.

Claim 17: The combination according to claim 16, wherein the coating is applied to be shorter than the film layers or the bituminous layer at least along one edge of the combination.

Claim 18: The combination according to claim 1, wherein the non-slip treatment is carried out by means of at least partial embossing of said surface.

Claim 19: The combination according to claim 18, wherein the embossing is shorter at least along one edge of the combination.

Claim 20: The combination according to claim 1, wherein the non-slip treatment is provided by a coextruded syndiotactic polystyrene (SPS) film.

Claim 21: The combination according to claim 1, wherein the non-slip treatment is provided by a thermoplastic elastomer with a metallocene complex.

Claims 22-23 (Canceled).

Claim 24: The combination according to claim 1, further comprising a tie layer or an adhesive disposed between two adjacent layers of said at least two film layers.

Claim 25: The combination according to claim 1, further comprising a barrier layer against mineral oils, oxygen or UV radiation disposed between two adjacent layers of said at least two film layers.

Claim 26: The combination according to claim 25, wherein said barrier layer comprises a layer of lacquer.

Claim 27 (Canceled).

Claim 28: The combination according to claim 9, wherein said bituminous layer has a surface facing away from said at least two film layers and a release liner is provided on said surface.

Claim 29: The combination according to claim 28, wherein said release liner comprises a release paper or a release film.

Claim 30: The combination according to claim 28, wherein the release liner is coated with silicone.

Claim 31: The combination according to claim 28, wherein the release liner has several sections.